



PATENT

#9/Recons. done 11/13/03
T. McBeth 11/13/03
Docket No. 3835-4001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Campbell et al.

Group Art Unit: 2756

Serial No. : 09/542,858

Examiner: Opie, George L.

Filed : April 4, 2000

For : APPARATUS, SYSTEM, AND METHOD FOR COMMUNICATING TO A
NETWORK THROUGH A VIRTUAL DOMAIN

RESPONSE TO RESTRICTION REQUIREMENT

RECEIVED

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Technology Center 2100

Sir:

Kindly consider the following election in response to the August 5, 2003, Restriction Requirement.

ELECTION:

The Examiner, in the Office Action dated August 5, 2003, required restriction to one of the following groups of claims:

- Group I - Claims 1-12 drawn to accessing a remote server via a name server, classified in class 709, subclass 219;
- Group II - Claims 13-24 and 33-39 drawn to accessing a server from a client, classified in class 709, subclass 203;
- Group III - Claims 25-31 drawn to allocating network resources, classified in class 709, subclass 226;
- Group IV - Claims 32 drawn to computer-to-computer data routing, classified in class 709, subclass 238; or
- Group V - Claims 40-44 drawn to interfacing a client to a network, classified in class 709, subclass 250.

Applicants respectfully traverse the restriction requirement because the Examiner has not made a sufficient showing of why searching all the claims of the application would be a serious burden.

The two criteria for making a proper Restriction Requirement between patentably distinct inventions is the following:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

In the Restriction Requirement, the Examiner has identified 5 distinct inventions that would require different fields of search in class 709, subclasses 203, 219, 226, 238 and 250 or result in a serious burden on the Examiner. The Applicants respectfully disagree that separate searches are required.

MPEP § 808.02 has established that a different field of search is necessary “where it is necessary to search for one of the distinct subjects in places where no pertinent art to the other subjects exist.” The following is the subject matter of each of the subclasses as identified in the USPTO manual of classifications:

1) 203-client/server; 2) 219-accessing a remote server; 3) 226-network resource allocation; 4) 238-computer-to-computer interfacing; and 5) 250-network-to-computer interfacing.

It appears to the Applicants extremely unlikely that the Examiner, during the performance of separate searches for each of the groups (I-V), would not come across ample related art to all

the claims in the above-identified groups. For example, the subject matter in claims 1-12 would most likely be found in subclasses 203, 226, 238 and 250 as well. Moreover, the entire search area for all the claims still would only include one class and 5 subclasses, which is not extensive for a typical search. Finally, given the relevance of the claims to all the subject matter in the above classifications, it would seem to be most efficient to search all the claims together. Increased efficiency in the search and examination of an application would appear to be an overall decrease in burden to the examiner, not an increase. These arguments are further supported by the MPEP.

MPEP § 803 states, in part that “if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

Accordingly, Applicants respectfully submit that the subject matter of the groups I-V is such that all of the claims may be searched together without imposing any serious burden on the Examiner. Accordingly, withdrawal of the restriction requirement is respectfully solicited.

To fulfill Applicants’ duty to reply to the Restriction Requirement, Applicants hereby elect Group I, Claims 1-12. Applicants reserve the right to file divisional applications based on the non-elected claims.

Response To Restriction Requirement dated August 5, 2003

AUTHORIZATIONS

A check for \$210.00 is enclosed to cover the fees for a two-month extension of time. The Commissioner is also hereby authorized to charge any additional fees which may be required for the timely consideration of this response, or credit any overpayment to Deposit Account No. 13-4503, Order No. 3835-4001.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Date: November 5, 2003

By: _____



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